

Remarks

The Examiner has objected to all of the pending claims based on formalities and rejected claims 1-17, 19 and 20 under 35 U.S.C. 112, second paragraph as indefinite. Applicant respectfully asserts that the amendments presented above address all of the items raised in paragraphs 1-5 of the present Office Action.

Claims 1-17 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Publication No. 2002/0168290 ("Yuzhakov"). Additionally, claims 11 and 18-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Yuzhakov in view of U.S. Patent No. 7,396,334 ("Kuhr"). Applicant has cancelled claim 1, and made claims 2-13, 16 and 17 depend (directly or indirectly) from amended, independent claim 18. New claim 21 also depends from independent claim 18. Claim 19, which is directed to a device produced by a method of claim 21, is the base claim for the remaining dependent claims 14, 15, and 20.

Regarding independent claim 18, the Examiner asserts that Yuzhakov discloses a method for producing combined puncturing and measuring devices by forming puncturing points on a band-shaped support material, sterilizing the points and applying a detection element to the support material, but does not disclose providing a soft plastic cover covering the puncturing points. The Examiner points to Kuhr for disclosure of providing a soft plastic cover to puncturing points during manufacture and asserts that it would have been obvious to combine Kuhr with Yuzhakov.

Applicant respectfully asserts that Yuzhakov does not disclose at least the sterilizing step of claim 18. The Examiner provided no citation to any of the references for disclosure of the claimed sterilizing step. This, Applicant respectfully asserts, is because no such teaching exists. Indeed, Yuzhakov discloses a coating of the tip of a puncturing device with chemical substances. If such a chemically coated tip were subjected to the claimed sterilization, the chemical coating would be damaged or destroyed. For at least this reason, independent claim 18, and dependent claims 2-13, 16 and 17, should be allowed.

Regarding claim 19, and dependent claims 14, 15 and 20, Applicant respectfully asserts that not only are the incorporated sterilization step of claim 18 and the express sterilization limitation of claim 19 ignored, but reliance on Kuhr for disclosure of a soft plastic cover is improper. The lancet taught in Kuhr (a patent also assigned to the Applicant) includes a lancet needle which is movable relative to a lancet body that

includes, at least in the area of the tip of the needle, an elastic material in which the needle tip is embedded. Kuhr, however, teaches a manufacturing process for packaging single lancets, and later applying a sterilized cap element. The claims of the present invention recite a band-shaped support material, which is not suitable for packaging lancets in a singular fashion. As such, the teachings of Kuhr are not applicable to the claimed invention. Applicant respectfully submits that a person of skill in the art would not combine Kuhr with Yuzhakov, and even if such a combination were made, the present invention would not be produced. For at least this additional reason, claims 19, 14, 15 and 20 should also be allowed.

If necessary, Applicant requests that this response be considered a request for an extension of time appropriate for the response to be timely filed. Applicant requests that any required fees needed beyond those submitted with this amendment be charged to the account of Baker & Daniels, Deposit Account No. 02-0390.

The Examiner is invited to contact the undersigned at the telephone number provided below should any question or comment arise during consideration of this matter.

Respectfully Submitted,

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